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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,936	10/19/2006	Teruo Ohira	SHIBP004	4547
25920 7590 11/20/2008 MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085				
EXAMINER				
PIERCE, WILLIAM M				
ART UNIT		PAPER NUMBER		
3711				
MAIL DATE		DELIVERY MODE		
11/20/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/567,936

**Applicant(s)**

OHIRA, TERUO

**Examiner**

William M. Pierce

**Art Unit**

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-7 is/are allowed.
- 6) ☒ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, "dice" is inferred to in the functional statement of the dice rolling portion. It has not been clearly a positive recited as an element being claimed in combination. Claim should be amended to positively recite a dice rolling portion and a pair of dice. Correcting this problem with the claim will fix the lack of antecedent for "the top sides of the dice" currently recited on ln. 4.

***Claim Rejections - 35 USC § 103***

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over 08-084855 in view of 4-352980 as set forth in the previous office action.

***Conclusion***

Applicant's arguments filed 7/25/08 have been fully considered but they are not persuasive.

Applicant argues that '855 does not teach a camera and provides only a small translation of paragraph [0030] support his argument. Applicant fails to alert paragraph [0033] to the attention of the examiner where '855 suggest other detections systems such as a CCD video camera that takes images from above as found in Japanese Laid open Applications 5-212158 and 5-212159. Since a CCD video camera

to be used a a detection system is clearly suggested, applicant's argument is not persuasive.

Applicant further argues that the Office has only provided vague details without specifically pointing out where the limitations in his claims evades the applied art. As such this argument is not persuasive.

Applicant goes on to disagrees because that the substitution of one agitator known in the art for that of another would have been obvious and argues that changing the "shooting button" or "shooting control" would change its "principle operation". Such an argument is not well founded. In '855, the surface upon which the dice are launched 24 is flat . '980 teaches that a sloped surface for launching the dice will cause them to rest in a position near the center. One skilled in the art faced with the problem of having the dice launched over a large area such as the of '855 as being undesirable would surely consider sloping the surface as in '980 to keep the dice in a desired position.

As to claim 2, 16 of '855 has been interpreted as a shielding member. Where applicant argues that "the prior art does not teach a camera inside the shield", such is not comensurate with the scope of the claim. More precicely claim 2 calls for the "camera shielded by a shielding member..." Even assuming that claim 2 can be amended to provide a camera inside the shielding member as argued by applicant, such is not considered to be a patentable advance. Enclosing game machines in a "transparent shield" is old to protect it from being touch or tampered with. Applicant is surely not the inventor of providing a shield on games since such is old. A common pinball machine has a glass shield over the playing surface and machine elements to

protect them. As such this argument is not persuasive. While applicant argues that 16 is not a shield and "can not shield the dice from anything", examiner does not agree. Most broadly, 16 can shield the playing surface from being touched from above or from undesirable light shining on the game.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Pierce whose telephone number is 571-272-4414 and E-mail address is [bill.pierce@USPTO.gov](mailto:bill.pierce@USPTO.gov). The examiner can normally be reached on Monday and Friday 9:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, communication via email at the above address may be found more effective. Where current PTO

internet usage policy does not permit an examiner to initiate communication via email, such are at the discretion of the applicant. However, without a written authorization by applicant in place, the USPTO will not respond via Internet e-mail to any Internet correspondence which contains information subject to the confidentiality requirement as set forth in 35 U.S.C. 122. A paper copy of such correspondence will be placed in the appropriate patent application. The following is a sample authorization form which may be used by applicant:

*"Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me by responding to this inquiry by electronic mail. I understand that a copy of these communications will be made of record in the application file."*

For further assistance examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/William M Pierce/

Primary Examiner, Art Unit 3711